

Open Meeting Law Training for the Parks and Recreation Commission

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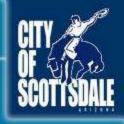
The Arizona Open Meeting Law (OML)



It is the public policy of this state that meetings of public bodies be conducted:

- openly
- and that notices and agendas be provided which contain information reasonably necessary to inform the public of the matters to be discussed.

Who Does the Open Meeting Law Apply to?



- OML Applies to all Public Bodies
- Public Bodies include:
 - City Council
 - Boards, Commissions and Task Forces
 - Subcommittees or other committees appointed by a public body regardless of what they are called

What is a Meeting?



A Meeting is:

- a gathering either in person or through technological devices
 - Includes:
 - any technology e-mail, call, text, social media, etc.
 - a <u>one-way</u> electronic communication by one member sent to a quorum that <u>proposes legal action</u>
 - an <u>exchange</u> of electronic communications among a quorum discussing, deliberating or taking legal action
 - includes <u>serial</u> communications that eventually make their way to a quorum

A.R.S. § 38-431(4)

What is a Meeting? (continued)



A Meeting is (continued):

- a gathering either in person or through technological devices (see last slide)
- of a <u>quorum</u> of members of a public body
- where they <u>discuss</u>, <u>propose or take legal action</u> with respect to an action that may come before the Commission

A.R.S. § 38-431(4)

What is "Legal Action"?



"Legal Action" =

All <u>discussions</u>, <u>deliberations</u>, <u>considerations</u>, <u>or consultations</u> among a majority of the members of a public body regarding matters that <u>may foreseeably require final action or a final decision</u> by the governing body, constitute "legal action" and, therefore, must be conducted in a public meeting or executive session.

What is a "Deliberation"?



"Deliberation" =

Any exchange of facts that relate to a matter which foreseeably might require some final action

Circumventing the Open Meeting Law



 Public officials may not circumvent public discussion by splintering the quorum and having separate or serial discussions with a majority of the public body members.

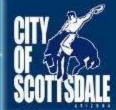
 Public officials also are subject to civil penalties and costs for knowingly directing any staff member to communicate in violation of the Open Meeting Law.

OML and **E-Mail**



- Example E-mails from Staff:
 - Can staff e-mail agenda information to the entire Commission?
 - Can staff forward a Commissioner's e-mail to entire Commission?
- Example E-mails from Commissioners:
 - Can a Commissioner send an e-mail to the entire Commission?
 - requesting an agenda item
 - providing factual information
 - Can a Commissioner reply to a staff e-mail?

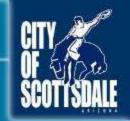
Notice and Agenda Required



- Agenda posted and available at least 24 hours before meeting.
 - Additional notice requirements for certain matters
 - City strives to give more advance notice than 24 hours, when possible
- Agenda must be posted on website.

A.R.S. § 38-431.02(C)

Notice and Agenda Contents

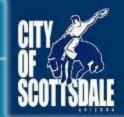


Notice and Agenda must include:

- "Notice and Agenda"
- Public Body's Name
- Time and location of the meeting
- Information "reasonably necessary" to inform public of matters to be discussed or decided.

If not reasonably related to agenda item - cannot discuss

Agenda Item on Current Events:



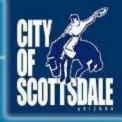
Director/Commissioner Reports

Members of a public body and/or staff may present a brief summary of current events without listing in the agenda the specific matters to be summarized, if:

- 1. The summary is listed on the agenda.
- 2. The public body does <u>not</u> propose, discuss, deliberate or take legal action at that meeting on any matter in the summary unless the specific matter is properly noticed for legal action.

A.R.S. § 38-431.02(K)

Minutes



Minutes are required for every public meeting and must include:

- Date, time, and place of meeting
- Members of public body present and absent
- General description of matters considered

Minutes (continued)



Minutes also must include:

- Accurate description of legal actions proposed, discussed or taken, including:
 - a record of how each member voted,
 - the names of those proposing each motion, and
 - the names of people making statements or presenting material

Violations, Enforcement, and Penalties



Violations

- Any legal action transacted in violation of the open meeting law is null and void unless the action is later ratified. A.R.S. § 38-431.05.
- Enforcement (A.R.S. § 38-431.07):
 - Any person affected by an alleged violation, the Attorney General, or County Attorney can sue to require compliance with, or prevent violations of, the open meeting law
 - The Attorney General may sue an individual member of the public body for knowingly violating the open meeting law

Violations, Enforcement, and Penalties



Penalties:

- No civil penalty for 1st violation
- \$500 maximum civil penalty for 2nd violation
- \$2,500 maximum civil penalty for 3rd and subsequent violations
 - The City is prohibited from paying the penalty on behalf of an individual commissioner
- Possible removal of a public officer if determined to have acted with an intent to deprive the public of information



Questions?